

AMENDED IN ASSEMBLY AUGUST 13, 2012

AMENDED IN ASSEMBLY AUGUST 7, 2012

AMENDED IN ASSEMBLY JUNE 26, 2012

AMENDED IN ASSEMBLY JUNE 12, 2012

AMENDED IN ASSEMBLY APRIL 25, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2564

Introduced by Assembly Member Ma

February 24, 2012

An act to amend ~~Section~~ *Sections 21080.21 and 21100.2* of, ~~and to add and repeal Section 21080.21.5 of,~~ the Public Resources Code, relating to environmental quality, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2564, as amended, Ma. Environmental quality: pipelines: project applicants.

(1) The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA exempts a project of less than one mile in length within a public street or highway or any other public right-of-way for the installation of a new pipeline, as defined, or the

maintenance, repair, restoration, reconditioning, relocation, replacement, removal, or demolition of an existing pipeline.

~~This bill would additionally except from CEQA a natural gas pipeline safety enhancement project, as defined, that meets specified requirements. The bill would require a person undertaking such a project to take certain actions with regard to the notification of public agencies and compliance with other permits and statutes. The bill would repeal this exemption on January 1, 2017~~ *revise that exemption to specify that if the pipeline is used or useful in the transmission or distribution of natural gas, the pipeline subject to that exemption may include other accessories or appurtenances. The bill would impose a state-mandated local program by imposing new duties upon local agencies with regard to this exemption. The bill would require a resource agency, as defined, when determining the applicability of this exemption with regard to a natural gas pipeline safety enhancement activity, as defined, to consider only the length of pipeline that is within its legal jurisdiction. The bill would impose a state-mandated local program by imposing new duties upon a local agency that is a resource agency regarding the applicability of this exemption regarding natural gas pipeline safety enhancement activity.*

~~The bill would also require~~ *authorize* a public agency to establish a process that would allow an applicant for a natural gas pipeline safety enhancement ~~project activity~~ to elect to pay additional fees to be used by the public agency in determining whether to approve that ~~project activity~~ by entering into a contract with one or more 3rd parties to assist the public agency to perform the analysis. ~~The bill would impose a state-mandated local program by imposing new duties upon local agencies.~~

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) On September 9, 2010, a 30-inch-diameter segment of an
4 intrastate natural gas transmission pipeline ruptured in a residential
5 neighborhood in the City of San Bruno. The rupture caused an
6 explosion and fire devastating a community and igniting a call to
7 action.

8 ~~(b) On January 2, 2011, the Public Utilities Commission (PUC)~~
9 ~~ordered Pacific Gas and Electric (PG&E), Southern California Gas~~
10 ~~(SoCalGas), San Diego Gas and Electric (SDG&E), and Southwest~~
11 ~~Gas to perform a comprehensive records review of their~~
12 ~~transmission pipelines and identify those that have not had their~~
13 ~~maximum allowable operating pressure established by pressure~~
14 ~~testing.~~

15 ~~(c) Federal law exempts from pressure test requirements~~
16 ~~pipelines placed in service prior to 1970. The National~~
17 ~~Transportation Safety Board, who has principle jurisdiction over~~
18 ~~the investigation into San Bruno, concluded that there is no safety~~
19 ~~justification for the grandfather clause exempting pre1970 pipelines~~
20 ~~from the requirement for postconstruction hydrostatic pressure~~
21 ~~testing.~~

22 ~~(d)~~
23 (b) Pursuant to PUC order and Section 958 of the Public Utilities
24 Code, enacted by Assembly Bill 56 (Chapter 519; of the Statutes
25 of 2011), gas corporations are required to prepare comprehensive
26 pressure testing implementation plans to pressure test or replace
27 all intrastate natural gas transmission pipelines as soon as
28 practicable.

29 ~~(e)~~
30 (c) The scope of work to be accomplished within the
31 implementation plans is unprecedented and will create thousands
32 of jobs within the state.

33 ~~(f)~~
34 (d) The safe and expeditious completion of these pipeline safety
35 enhancements is a state and public safety priority.

36 ~~(g)~~
37 (e) It is a matter of statewide concern to achieve the timely
38 completion of natural gas pipeline safety enhancements, including

1 programs for maintenance and operation enhancements, and to
2 contribute to the public's confidence in the safety of natural gas
3 pipelines and their ongoing maintenance and operation.

4 ~~(h) It is in the public interest to accelerate the permitting process~~
5 ~~for natural gas pipeline safety enhancements, including programs~~
6 ~~for maintenance and operation enhancements, and for permitting~~
7 ~~agencies to give these projects priority in processing permits.~~

8 ~~(i) It is in the public interest to enable state agencies to better~~
9 ~~carry out their permitting responsibilities by providing applicants~~
10 ~~an option for enhancing available resources for permit processing.~~

11 SEC. 2. Section 21080.21.5 is added to the Public Resources
12 Code, to read:

13 21080.21.5. ~~(a) For purposes of this section, the following~~
14 ~~definitions shall apply:~~

15 (1) ~~“Natural gas pipeline safety enhancement project” means~~
16 ~~an activity for the installation of a new pipeline or the maintenance,~~
17 ~~repair, restoration, reconditioning, relocation, replacement,~~
18 ~~removal, or demolition of an existing pipeline undertaken by a~~
19 ~~public utility as part of a program to enhance the safety of intrastate~~
20 ~~natural gas pipelines, in accordance with a decision, rule, or~~
21 ~~regulation adopted by the Public Utilities Commission.~~

22 (2) ~~“Pipeline” includes any valve, flange, meter, or other piece~~
23 ~~of equipment that is directly attached to a pipeline.~~

24 ~~(b) This division does not apply to a natural gas pipeline safety~~
25 ~~enhancement project if the project meets all of the following~~
26 ~~requirements:~~

27 ~~(1) The project is less than eight miles in length.~~

28 ~~(2) The project is within a public street or highway or other~~
29 ~~public right-of-way.~~

30 ~~(3) The right-of-way is restored to its condition prior to the~~
31 ~~project.~~

32 ~~(4) Construction activity does not take place along more than~~
33 ~~one mile at any one time.~~

34 ~~(5) The project is not located in a resource area, as defined in~~
35 ~~Section 65080.01 of the Government Code.~~

36 ~~(c) A person undertaking a natural gas pipeline safety~~
37 ~~enhancement project pursuant to this section shall do both of the~~
38 ~~following:~~

39 ~~(1) Provide written notification of the exemption of the project~~
40 ~~from this division to any public agency that has discretionary~~

1 ~~permit and land use authority, no later than 10 days prior to~~
2 ~~undertaking the project, and thereafter proceed to secure all~~
3 ~~appropriate ministerial permits from the public agency.~~

4 ~~(2) Comply with all conditions otherwise authorized by law or~~
5 ~~imposed by any state agency as part of any permit process and~~
6 ~~otherwise comply with the California Endangered Species Act~~
7 ~~(Chapter 1.5 (commencing with Section 2050) of Division 3 of~~
8 ~~the Fish and Game Code), the California Coastal Act of 1976~~
9 ~~(Division 20 (commencing with Section 30000)), and other~~
10 ~~applicable state and federal laws.~~

11 ~~(d) A project shall not be divided into smaller projects to qualify~~
12 ~~for one or more exemptions pursuant to this section.~~

13 ~~(e) This section shall remain in effect only until January 1, 2017,~~
14 ~~and as of that date is repealed, unless a later enacted statute, that~~
15 ~~is enacted before January 1, 2017, deletes or extends that date.~~

16 *SEC. 2. Section 21080.21 of the Public Resources Code is*
17 *amended to read:*

18 21080.21. (a) This division does not apply to any project of
19 less than one mile in length within a public street or highway or
20 any other public right-of-way for the installation of a new pipeline
21 or the maintenance, repair, restoration, reconditioning, relocation,
22 replacement, removal, or demolition of an existing pipeline. For

23 (b) For purposes of this section, “pipeline” ~~includes means~~
24 ~~subsurface facilities but does not include any surface facility related~~
25 ~~to the operation of the underground facility pipelines and~~
26 ~~subsurface or surface accessories or appurtenances to a pipeline,~~
27 ~~such as mains, traps, vents, cables, conduits, vaults, valves, flanges,~~
28 ~~manholes, and meters.~~

29 (c) *In determining the applicability of the exemption provided*
30 *by this section to a natural gas pipeline safety enhancement activity*
31 *under review by a resource agency, the resource agency shall*
32 *consider only the length of pipeline that is within its legal*
33 *jurisdiction.*

34 (d) *For purposes of this section, the following definitions shall*
35 *apply:*

36 (1) *“Natural gas pipeline safety enhancement activity” means*
37 *an activity undertaken by a public utility as part of a program to*
38 *enhance the safety of intrastate natural gas pipelines in accordance*
39 *with a decision, rule, or regulation adopted by the Public Utilities*
40 *Commission.*

(2) “Resource agency” means the State Lands Commission, California Coastal Commission, Department of Fish and Game, or State Water Resources Control Board, and local or regional agencies with permitting authority under the California Coastal Act of 1976 (Division 20 (commencing with Section 30000)) or Chapter 4 (commencing with Section 13200) of Division 7 of the Water Code.

SEC. 3. Section 21100.2 of the Public Resources Code is amended to read:

21100.2. (a) (1) For projects described in subdivision (c) of Section 21065, each state agency shall establish, by resolution or order, time limits that do not exceed the following:

(A) One year for completing and certifying environmental impact reports.

(B) One hundred eighty days for completing and adopting negative declarations.

(2) The time limits specified in paragraph (1) shall apply only to those circumstances in which the state agency is the lead agency for a project. These resolutions or orders may establish different time limits for different types or classes of projects, but all limits shall be measured from the date on which an application requesting approval of the project is received and accepted as complete by the state agency.

(3) No application for a project may be deemed incomplete for lack of a waiver of time periods prescribed in state regulations.

(4) The resolutions or orders required by this section may provide for a reasonable extension of the time period in the event that compelling circumstances justify additional time and the project applicant consents thereto.

(b) If a draft environmental impact report, environmental impact report, or focused environmental impact report is prepared under a contract to a state agency, the contract shall be executed within 45 days from the date on which the state agency sends a notice of preparation pursuant to Section 21080.4. The state agency may take longer to execute the contract if the project applicant and the state agency mutually agree to an extension of the time limit provided by this subdivision.

(c) (1) A public agency ~~shall~~ may establish a process that would allow an applicant for a natural gas pipeline safety enhancement project activity to elect to pay additional fees to be used by the

1 public agency in determining whether to approve a natural gas
2 pipeline safety enhancement ~~project~~ *activity* by entering into a
3 contract with one or more third parties to assist the public agency
4 to perform the analysis, consistent with Article VII of the California
5 Constitution and Section 19130 of the Government Code and the
6 charter of a chartered city or county, as applicable. The public
7 agency may, but is not required to, offer a ~~project~~ *an* applicant the
8 option to pay those fees and subject a project to this process.

9 (2) The amount of the fees charged by the public agency
10 pursuant to this subdivision shall be conditioned upon the natural
11 gas pipeline safety enhancement ~~project~~ *activity* applicant agreeing
12 to that amount and electing to proceed with the retention of a third
13 party pursuant to this subdivision.

14 (3) All fees paid by a natural gas pipeline safety enhancement
15 ~~project~~ *activity* applicant shall be used exclusively for analysis of
16 that applicant's application for certification.

17 (4) For purposes of this section, "natural gas pipeline safety
18 enhancement ~~project~~" *activity*" has the same meaning as defined
19 in paragraph (1) of subdivision ~~(a)~~ of Section ~~21080.21.5~~ *(d)* of
20 Section 21080.21.

21 SEC. 4. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 a local agency or school district has the authority to levy service
24 charges, fees, or assessments sufficient to pay for the program or
25 level of service mandated by this act, within the meaning of Section
26 17556 of the Government Code.

27 SEC. 5. This act is an urgency statute necessary for the
28 immediate preservation of the public peace, health, or safety within
29 the meaning of Article IV of the Constitution and shall go into
30 immediate effect. The facts constituting the necessity are:

31 In order to achieve the timely completion of natural gas pipeline
32 safety enhancements, including programs for maintenance and
33 operation enhancements, and to contribute to the public's
34 confidence in the safety of natural gas pipelines and their ongoing
35 maintenance and operation, thereby protecting public health and
36 safety, it is necessary for this act to take effect immediately.